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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Telephone Number Portability)

CC Docket No. 95-116

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REPLY COMMENTS OF BELL ATLANTIC NYNEX MOBILE, INC.

Bell Atlantic NYNEX Mobile, Inc. (BANM), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, hereby submits its reply comments on the July 13, 1995, Notice of Proposed Rulemaking (NPRM). The NPRM, while focusing on landline number portability, also sought comment on the advisability of developing portability requirements for commercial mobile radio service (CMRS) providers.

In its initial comments, BANM recommended that the Commission not develop CMRS portability regulations in this proceeding. BANM explained that, given the existence of multiple CMRS competitors, the absence of current demand for wireless portability, and the unique, complex technical problems that it would raise, regulations at this time are not warranted. The Commission should instead convene an industry advisory committee, which can consider the technical issues and seek to resolve them. Then, if the Commission determines that the costs of requiring wireless number portability are clearly justified by tangible benefits, it can propose CMRS-specific rules.

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The rulemaking record does not support adoption of number portability standards for wireless carriers at this time. By far most of the initial comments filed with the Commission address landline portability, not wireless. Even then, many commenters point to the numerous technical problems with landline portability, and the need for careful cost-benefit analysis.¹ In wireless, as BANM pointed out, cost-benefit analysis clearly counsels against taking action now. The record shows that while the need for number portability is less apparent in the CMRS industry than in the landline context, the technical problems may be more difficult.

The Commission has determined that it will only impose new regulations on CMRS providers where there is a "clear cut need" for doing so.² The record here does not establish the need for wireless number portability, let alone a "clear cut" one. Most commenters focus on landline issues and do not address the specific issues raised in the wireless context. Commenters that address wireless number portability generally note that its benefits would be attenuated because of the nature of mobile services.³ Wireless customers already enjoy geographic portability. Reconfiguring wireless systems to facilitate service provider portability also

¹Comments of GTE at 5-7; 18-21; Comments of Bell Atlantic at 2-3; 12-15; Comments of the NYNEX Telephone Companies at 6-12.

²Petition of the Connecticut Dep't of Public Utility Control to Retain Regulatory Control of the Rates of Wholesale Cellular Service Providers, Report and Order, PR Docket No. 94-106, at 10, 13 (1995).

³Comments of CTIA at 9-10; Comments of BellSouth Corp. at 12 ("In the near term, number portability for wireless services is not necessary to insure active competition, nor has there been any demonstrated demand for such capability.").

fails to present clear benefits, since there is little value placed by most wireless subscribers on their mobile numbers; in fact many restrict access to their mobile phones and do not freely provide their numbers.⁴ In addition, there is a growing number of CMRS competitors, and customers can and do change their mobile carrier.⁵ Several CMRS providers state that the absence of portability has not hindered their entry into the market and the development of vigorous wireless competition.⁶

In addition to the lack of a record basis for finding the requisite compelling need to adopt CMRS portability rules at this time, the record identifies special burdens and costs associated with grafting portability obligations onto wireless networks. BANM identified a number of difficult technical problems that

⁴"Recent developments in the telecommunications market make the retention of one's telephone number less important than it has been in the past." Joint Comments of AirTouch Paging and Arch Communications Group at 5. See also Comments of BellSouth Corp. at 13 (noting lack of value of mobile number to the customer).

⁵Comments of CTIA at 10 (discussing "churning" of customers).

⁶Comments of Paging Network, Inc. at 3; Joint Comments of AirTouch Paging and Arch Communications Group at 4-5 ("The robust development of the paging industry establishes that segments of the telecommunications market that are highly dependent on telephone numbers can become competitive even without number portability.").

A few commenters urge adoption of wireless portability by asserting it will enhance competition in the CMRS market. Comments of National Wireless Resellers Ass'n at 1; Comments of MCI Telecommunications Corp. at 2; Comments of Omnipoint Corp. at 3. Their assertions are, however, not buttressed by any market study or other analysis, ignore the fact that subscribers can and do change mobile carriers without number portability, and ignore the numerous technical problems and costs with wireless portability shown by the record.

requiring wireless number portability would create. Other commenters concur, noting these and other problems, such as the wireless industry's use of different signalling protocols, which will hamper current services and make portability difficult to implement.⁷ SBC Communications explains why the various wireline-based portability proposals would "destroy" the efficiencies and benefits of cellular roaming, one of the important service benefits cellular providers offer, and concludes that "the unique problems associated with wireless portability require that it be placed on a separate track."⁸ The Cellular Telecommunications Industry Association also notes the incompatibility of current portability approaches with roaming, and identifies other technical problems and cost burdens that portability would entail.⁹ The record, in sum, indicates that portability is not feasible without extensive modifications to CMRS providers' networks.

BANM advocated that an industry committee be assigned the task of developing long-term solutions to these and other technical issues. Other commenters agree, identifying the benefits of bringing the industry's expertise to bear on portability instead of seeking to draft and impose regulations at this time

⁷Comments of PCIA at 5 (portability is at this time "technically and economically incompatible with certain CMRS services."); Comments of PCS Primeco, L.P. at 6 (identifying limitations and technical problems with current proposals); Comments of Nextel Communications, Inc. at 8.

⁸Comments of SBC Communications at 15-16 and Appendix F.

⁹Comments of Cellular Telecommunications Industry Assn at 6-7. CTIA notes that the Illinois Commerce Commission has severed wireless portability from its current proceeding on number portability because of the unique problems raised by implementing portability on mobile networks. Comments at 7. This Commission should do the same.

through rulemaking.¹⁰ Whether through a new Industry Advisory Committee as BANM suggested, the North American Numbering Council, or an existing group such as the Industry Numbering Committee, the Commission can best achieve a long-term number portability policy by first seeking industry assistance in crafting solutions to the many network and other technical issues.

A number of commenters oppose the imposition of "interim" requirements for wireless portability, pointing to the inefficiencies of requiring carriers to implement temporary requirements which may then be superseded, and concluding that the costs far exceed any benefits.¹¹ BANM agrees. The right course is to direct industry to develop a consensus approach toward the network modifications which would be necessary to achieve portability. To the extent that the competitive CMRS marketplace demands portability, carriers will have the economic incentive to make the necessary changes to their networks and interconnection arrangements. If the Commission subsequently determines that there is an unmet, clear-cut need for regulatory intervention, it can at that time revisit whether to adopt mandatory wireless portability standards.

¹⁰Comments of Personal Communications Industry Assn at 3-4 ("PCIA urges that the Commission allow the industry itself to develop the technical standards for providing such portability."); Comments of CTIA at 11-12; Comments of SBC Communications at 2; Comments of PCS Primeco, L.P. at 9-10; Comments of Nextel Communications, Inc. at 2.

¹¹Comments of AirTouch Paging and Arch Communications Group at 12; Comments of PCIA at 9; Comments of Paging Network, Inc. at 9-10.

BANM's initial comments stressed the need for the Commission to adopt uniform, national policies for number portability both for wireline portability and, if later shown to be justified, wireless portability. The record strongly supports the importance of nationwide standards. Many commenters explain why state-by-state portability standards would undermine whatever benefits portability would otherwise bring.¹² As BANM pointed out, the need for consistent requirements is particularly strong for wireless carriers, which offer seamless service across state boundaries and often in multiple states. Moreover, Congress vested primary regulatory authority over wireless services in the Commission to avoid a patchwork of differing state requirements. The record thus supports preemption of state-imposed wireless number portability obligations.

In sum, BANM urges the Commission to defer considering the adoption of regulations creating new obligations on wireless carriers in this area at least until the numerous technical issues involved with portability can be resolved through industry efforts. To ensure uniformity and the preeminence of federal policy, the

¹²E.g., Comments of GTE at 21-22 (failure to develop uniform national standards "would invite egregious cost inefficiencies and implementation nightmares, severely jeopardizing the nationwide availability" of portability); Comments of Bell Atlantic at 10-11; Comments of PCIA at 7 ("federal action on number portability is vastly preferable to state action"); Comments of SBC Communications at 2 (Commission should "assume a leadership role in developing a national number portability policy"); Comments of Paging Network Inc. at 5-7 (state-by-state action may "preclude affordable, seamless, national number portability."); Comments of PCS Primeco, L.P. at 8 (a "Balkanized system" will impose increased costs and defeat the benefits of uniformity); Comments of Omnipoint Corporation at 5 (inconsistent state standards should be preempted); Comments of Nextel Communications, Inc. at 10.

Commission should also preclude the states from adopting separate number portability requirements.

Respectfully submitted,

BELL ATLANTIC NYNEX MOBILE, INC.

By: John T. Scott, III
John T. Scott, III
CROWELL & MORING
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
(202) 624-2500

Its Attorneys

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